



# City of NORFOLK

C: Dir., Department of City Planning

To the Honorable Council  
City of Norfolk, Virginia

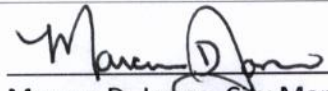
June 9, 2015

From: George M. Homewood, AICP, CFM, Planning Director

Subject: **Special Exception for redevelopment of an existing flag lot**

Reviewed:   
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 3/7

Approved:   
Marcus D. Jones, City Manager

Item Number: **R-5**

- I. **Staff Recommendation:** **Approval**, with the condition that the new home obtain a zoning certificate to ensure the design is consistent with the prevailing architectural pattern within the neighborhood.
- II. **Commission Action:** By a vote of **7 to 0**, the Planning Commission recommends **Approval**.
- III. **Request:** Special Exception for redevelopment of an existing flag lot.
- IV. **Applicant:** **David Colby**
- V. **Description:**
  - The existing nonconforming duplex structure constructed in 1950 would be demolished in order to permit a new single-family home to be constructed.
  - The current use of the property as a legally-established nonconforming duplex is grandfathered.
  - Should this special exception be denied, the duplex would remain grandfathered and could lawfully continue to function as a duplex use, as it has for the past 65 years.
    - The special exception includes a condition that requires the home to obtain a zoning certificate from the Planning Department, prior to the issuance of any building permit.
    - The zoning certificate will ensure compatibility with the surrounding residential development with respect to the proposed footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.
  - The Greenwood/Elmhurst/Norview Heights Civic League expressed opposition to the request based on the civic league's position against flag lots.
    - The civic league president has stated that the civic league will be asking for the City to demolish the existing nonconforming duplex on the site.

Staff point of contact: Matthew Simons at 664-4750, [matthew.simons@norfolk.gov](mailto:matthew.simons@norfolk.gov)

Attachments:

- Staff Report to CPC dated May 28, 2015 with attachments
- Letter of opposition – Greenwood/Elmhurst/Norview Heights Civic League
- Proponents and Opponents
- Ordinance





# City of NORFOLK

## Planning Commission Public Hearing: **May 28, 2015**

Executive Secretary: George M. Homewood, AICP, CFM

Staff: Matthew Simons, CFM

Staff Report	Item No. <b>5</b>	
Address	<b>4818 Kennebeck Avenue</b>	
Applicant	<b>David Colby</b>	
Request	<b>Special Exception to create a flag lot</b>	
Property Owner	Daniel L. Milliman	
Site Characteristics	Site Area	10,817 square feet
	Zoning	R-8 (Single-Family)
	Neighborhoods	Greenwood/Elmhurst/Norview Heights
	Character District	Suburban
Surrounding Area	North	R-8: single-family homes and church
	East	R-8: single-family homes
	South	R-8: single-family homes
	West	R-8 and IN-1 (Institutional): single-family home and church





#### A. Summary of Request

- This request is to permit the existing flag lot to be redeveloped.
  - The existing nonconforming duplex would be demolished in order to permit a new single-family home to be constructed.
- The site is located within the Elmhurst neighborhood, east of Sewells Point Road and on the north side of Kennebeck Avenue.
  - The site is surrounded primarily by single-family homes, with a church located to the north and northwest of the subject parcel.

#### B. Plan Consistency

- *plaNorfolk2030* designates this site as single-family traditional.
  - The Identifying Land Use Strategies chapter of *plaNorfolk2030* identifies the single-family traditional land use category as a location for single-family detached development characterized by houses set back a moderate distance from the street with driveways leading to rear garages on lots of 50 to 70 feet wide and approximately 4,000 to 7,500 square feet.
- The proposed flag lot will contain a house constructed behind an existing home fronting on Kennebeck Avenue; thus not meeting the above description contained in *plaNorfolk2030*.
  - However, the use of the flag lot can be considered an appropriate technique for making efficient use of parcels with exceptional depth under certain circumstances.

#### C. Zoning Analysis

##### i. General

- The site is currently zoned R-8, which requires a minimum lot width of 50 feet and a minimum lot size of 5,000 square feet.
- The applicant proposes to demolish the nonconforming duplex on the subject parcel and construct a single-family home.
- Since 2001, the *Zoning Ordinance* has required a special exception for any flag lot to be created or improved by any structure.
  - In 1991 the lot was lawfully subdivided to create the existing flag lot, prior to the current requirement for flag lots to obtain a special exception.
  - Although the flag lot is not entirely consistent with *plaNorfolk2030*, the lot currently exists as a legally nonconforming flag lot and does not confer any added rights or privileges.
    - Approval of the special exception recognizes the flag lot in its current configuration.
    - Approval of the special exception would also require the nonconforming duplex to be replaced with a conforming single-family use, thus making the net result far more compatible with surrounding parcels.

ii. Parking

The site is located in the Suburban Character district, which requires two parking spaces per dwelling unit.

iii. Flood Zone

The property is in the X Flood Zone, which is a low risk flood zone.

**D. Transportation Impacts**

Institute of Transportation Engineers figures estimate that the replacement of an existing duplex with one new single family home on this site will generate 10 fewer vehicle trips per day.

**E. Impact on the Environment**

The new house will comply with all standards set forth in the *Zoning Ordinance* including stormwater impacts.

**F. Impact on Surrounding Area/Site**

- The proposed development will eliminate the nonconforming duplex and provide for a residential use (single-family) that is consistent with the R-8 zoning district.
  - The special exception includes a condition that requires the home to obtain a zoning certificate from the Planning Department, prior to the issuance of any building permit.
  - The zoning certificate will ensure compatibility with the surrounding residential development with respect to the proposed footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.

**G. Payment of Taxes**

The owner of the property is current on all real estate taxes.

**H. Civic League**

- Notice was sent to the Greenwood/Elmhurst/Norview Heights Civic League on April 15.
- The applicant attended the Greenwood/Elmhurst/Norview Heights April civic league meeting.

**I. Communication Outreach/Notification**

- Legal notice was posted on the property on April 21.
- The application was sent to the Greenwood/Elmhurst/Norview Heights Civic League on April 14.
- Letters were mailed to all property owners within 300 feet of the property on May 14.
- Legal notification was placed in *The Virginian-Pilot* on May 14 and May 21.



#### J. Recommendation

- Although approval of the special exception may be viewed as not entirely consistent with *plaNorfolk2030*, it would allow the lot, and the proposed single-family use, to come into complete conformance with the *Zoning Ordinance*, by requiring the nonconforming duplex to be replaced with a single-family dwelling.
- For this reason Staff recommends that the request for rezoning be **approved**, subject to the conditions shown below:
  1. The site shall be developed in accordance with the conceptual site plan entitled "Special Exception Exhibit of Lot – 'H' subdivision of lots 7, 8, 22, 23 and part of lot 6, block 6 plat showing subdivisions of No. 1 of Elmhurst" as prepared by *WPL Land Surveyor*, dated April 30, 2015, attached hereto and marked as "Exhibit A."
  2. No building permit shall be issued until a zoning certificate has been granted by the Department of City Planning, which verifies that the proposed single-family dwelling to be built on the parcel is consistent with the prevailing pattern in the neighborhood with respect to the footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.

#### Attachments

Location Map

Zoning Map

Picture of Existing Home on Site

Application

Conceptual Site Plan

Notice to the Greenwood/Elmhurst/Norview Heights Civic League

## Simons, Matthew

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**From:** greenwoodcivic1@aol.com  
**Sent:** Wednesday, May 27, 2015 1:18 PM  
**To:** Simons, Matthew  
**Subject:** 4818 Kennebeck

Hello Mathew,

Greenwood, Elmhurst, Norview Heights Civic League has voted to OPPOSE the application by David Colby to establish a flag lot at 4818 Kennebeck.

To summarize, we have reviewed this application twice. First in April and again in May.

League members met with Mr. Colby prior to the meeting in April. Included in the meeting was a neighbor who owns adjacent property to 4818 Kennebeck. At our April meeting, we reviewed the provided documentation and voted accordingly to OPPOSE the application. A representative for Mr. Colby was scheduled, but failed to appear.

At your request, we agreed to hear the application again. This time Mr. Colby appeared as scheduled and the league voted to OPPOSE the application again.

As a league, we are concerned that a report with recommendations, written by the Planning Department, is being used as justification to approve the application prior to input or interaction from the League. The idea that an application should be approved because no one can think of another use for a property represents, to us, faulty logic. There is, in fact, interest (and ideas) in the property from other individuals and organizations. But those plans are not what we consider. Similarly, we do not consider the argument that the applicant was given "bad information" by the Planning Department and therefore cannot extricate himself from a contract signed prematurely if we do not not endorse their application.

The civic league will consider any application based upon the merits of that application. As such, we have now voted twice to oppose this application.

If you have any questions, please contact me directly.

Regards

Jackie Rochelle  
GENH Civic League

Sent from my MetroPCS 4G Android device

## **Proponents and Opponents**

### **Proponents**

David Colby – Applicant  
1224 Homestead Drive  
Virginia Beach, VA 23464

### **Opponents**

Jackie Rochelle – President, Greenwood/Elmhurst/Norview Heights Civic League  
3314 Sewells Point Road  
Norfolk, VA 23513



Form and Correctness Approved: *2A*

By *[Signature]*  
Office of the City Attorney

Contents Approved: *M.S.*

By *[Signature]*  
DEPT.

NORFOLK, VIRGINIA

## ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION TO PERMIT THE CREATION OF A FLAG LOT ON PROPERTY LOCATED AT 4818 KENNEBECK AVENUE.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted authorizing the creation of a flag lot on property located at 4818 Kennebeck Avenue. The property which is the subject of this Special Exception is more fully described as follows:

Property fronting 30 feet more or less, along the northern line of Kennebeck Avenue, beginning 247 feet, more or less, from the eastern line of Sewells Point Road and extending eastwardly; premises numbered 4818 Kennebeck Avenue.

Section 2:- That the property rezoned by this ordinance shall be subject to the following conditions:

- (a) The site shall be developed in accordance with the conceptual site plan entitled "Special Exception Exhibit of Lot-'H'" as prepared by WPL Land Surveying, dated April 9, 2015, revised April 30, 2015, attached hereto and marked as "Exhibit A."
- (b) No building permit shall be issued for any improvements on the property until a zoning certificate has been granted by the Department of Planning verifying that the proposed single-family dwelling to be constructed is consistent with the prevailing pattern in the neighborhood with respect to the footing, massing, scale, appearance, fenestration, roof lines and other exterior elements.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the



requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a

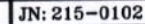
negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:  
Exhibit A (1 page)







Location Map

ELMHURST AVENUE

DAVID COLBY



SEWELLS POINT ROAD

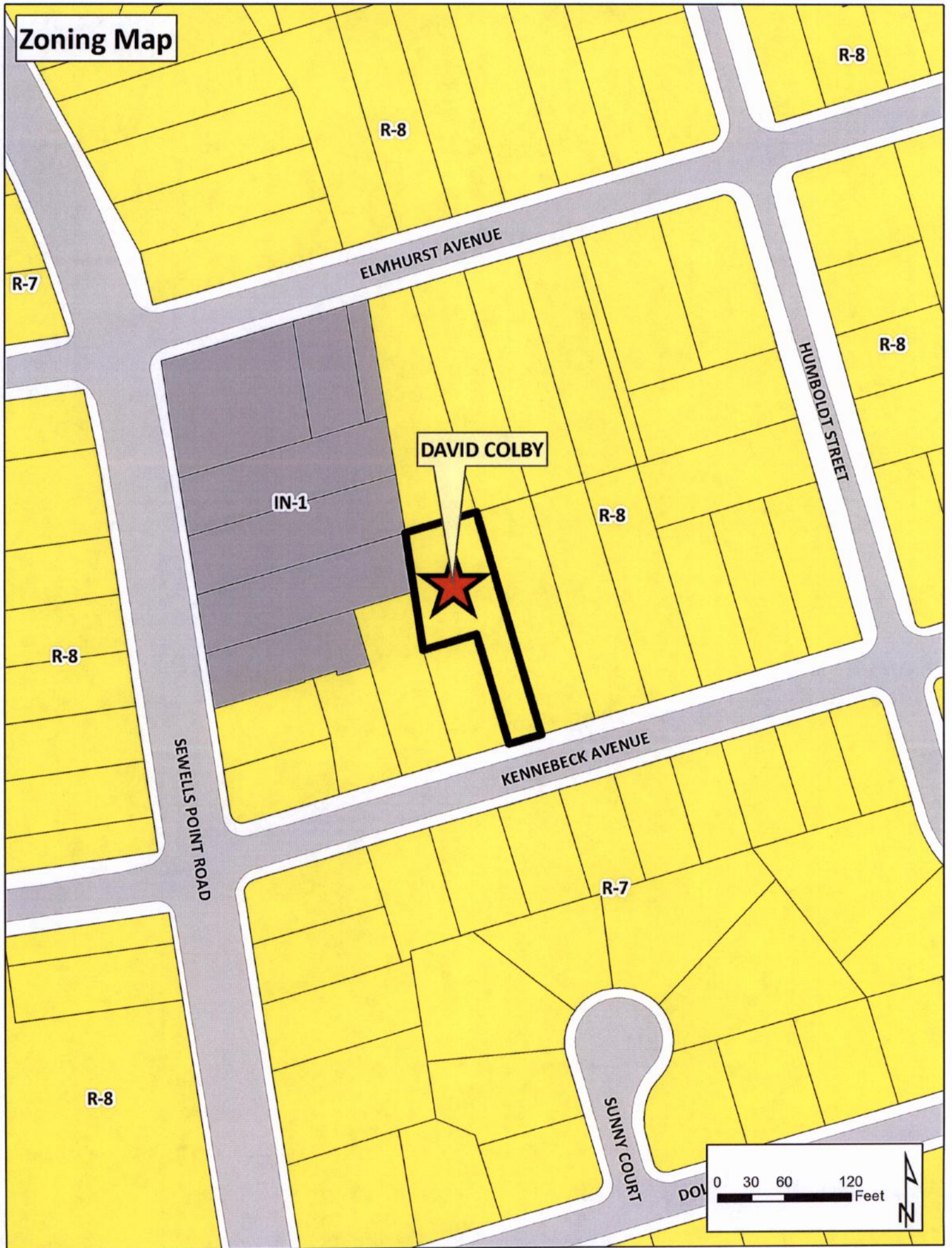
KENNEBECK AVENUE

0 15 30 60 Feet





**Zoning Map**











**APPLICATION  
SPECIAL EXCEPTION**

Special Exception for: Flag lot

Date of application: 04/10/2015

**DESCRIPTION OF PROPERTY**

Property location: (Street Number) 4819 (Street Name) Kennebeck Ave

Existing Use of Property Duplex

Current Building Square Footage 1022 X 2

Proposed Use Single Family Home 5 bedroom 2 1/2 bath  
2,250 square ft.

Proposed Square Footage 2,250

Proposed Hours of Operation:

Weekday From \_\_\_\_\_ To \_\_\_\_\_

Friday From \_\_\_\_\_ To \_\_\_\_\_

Saturday From \_\_\_\_\_ To \_\_\_\_\_

Sunday From \_\_\_\_\_ To \_\_\_\_\_

Trade Name of Business (If applicable) \_\_\_\_\_

**DEPARTMENT OF CITY PLANNING**

810 Union Street, Room 508

Norfolk, Virginia 23510

Telephone (757) 664-4752 Fax (757) 441-1569

(Revised January, 2015)

**CIVIC LEAGUE INFORMATION**

Civic League contact: Greenwood/Norview Heights *greenwoodcivic1@aol.com*  
*Jackie Rochelle rdmc1@aol.com*

Date(s) contacted: 04/10/2015

Ward/Super Ward information: \_\_\_\_\_

**CERTIFICATION:**

I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

V Print name: Jeremy Stansbury Sign: [Signature] 4/13/15  
(Property Owner or Authorized Agent of Signature) (Date)

Print name: David Colby Sign: [Signature] 04/10/2015  
(Applicant) (Date)

**ONLY NEEDED IF APPLICABLE:**

Print name: \_\_\_\_\_ Sign: \_\_\_\_\_ / /  
(Authorized Agent Signature) (Date)



Application  
Special Exception  
Page 2

**APPLICANT**

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Colby (First) David (MI) B

Mailing address of applicant (Street/P.O. Box): 1224 Homestead Dr.

(City) Virginia Beach (State) VA (Zip Code) 23464

Daytime telephone number of applicant (757) 724-3205 Fax (757) 474-0831

E-mail address of applicant: dbcobly7@gmail.com

✓ **AUTHORIZED AGENT (if applicable)**

(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) Stansbury (First) Jeremy (MI) \_\_\_\_\_

Mailing address of applicant (Street/P.O. Box): 1932 Kempsville Rd #107

(City) Virginia Beach (State) VA (Zip Code) 23464

Daytime telephone number of applicant (757) 289-5352 Fax ( ) \_\_\_\_\_

E-mail address of applicant: jstansbury77@hotmail.com

**PROPERTY OWNER**

(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

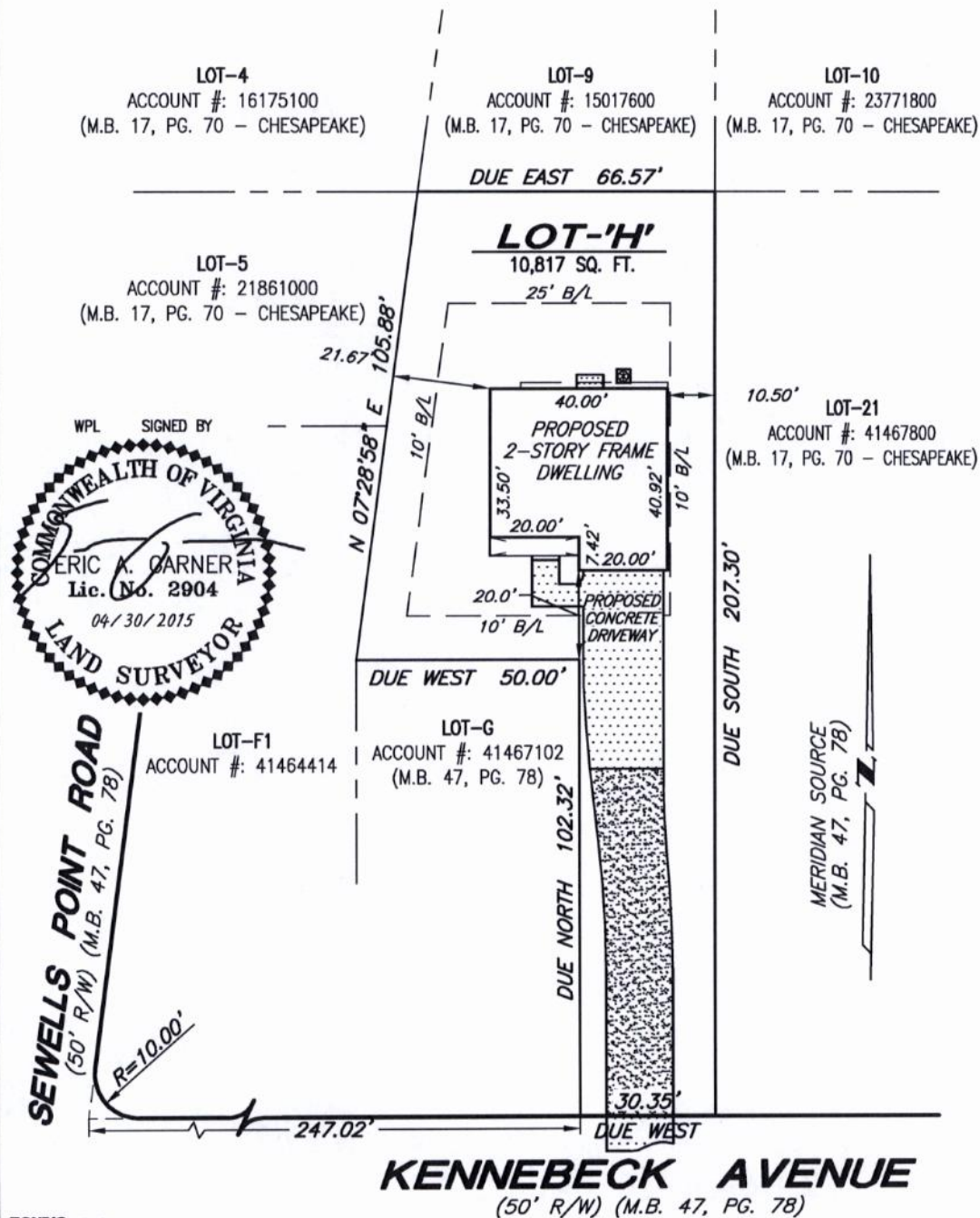
3. Name of property owner: (Last) Millman (First) Ran (MI) \_\_\_\_\_

Mailing address of property owner (Street/P.O. box): 1304 Sloop Pt

(City) Virginia Beach (State) VA (Zip Code) 23454

Daytime telephone number of owner (757) 641-4326 email: netter@reagan.com

THIS IS TO CERTIFY THAT ON APRIL 9, 2015, WE SURVEYED THE PROPERTY SHOWN ON THIS PLAT AND THAT THE PROPERTY LINES OF RECORD AS SHOWN IN: MAP BOOK 47, PAGE 78 AND THE WALLS OF THE BUILDINGS ARE AS SHOWN ON THIS PLAT. THE BUILDINGS STAND WITHIN THE SAID PROPERTY LINES AND THERE ARE NO VISIBLE ENCROACHMENTS OF OTHER BUILDINGS ON THE PROPERTY, EXCEPT AS SHOWN.



**ZONING:** R-8

**FLOOD INFORMATION:** THE PROPERTY SHOWN HEREON APPEARS TO FALL WITHIN FLOOD ZONE X (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOOD), AS SHOWN ON F.E.M.A.'S FLOOD INSURANCE RATE MAP (F.I.R.M.) FOR THE CITY OF NORFOLK, VIRGINIA, COMMUNITY PANEL NO. 5101040105F, DATED SEPTEMBER 2, 2009.  
WPL IS NOT A PARTY IN DETERMINING THE REQUIREMENTS FOR FLOOD INSURANCE ON THE PROPERTY SHOWN HEREON. THIS SURVEY DOES NOT IMPLY THAT THIS PROPERTY WILL OR WILL NOT BE SUBJECT TO FLOODING, FOR FURTHER INFORMATION, CONTACT THE LOCAL COMMUNITY FLOOD OFFICIAL. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND MAY NOT SHOW ANY/ALL EASEMENTS OR RESTRICTIONS THAT MAY AFFECT SAID PROPERTY AS SHOWN. THIS PLAT DOES NOT INTEND TO REPRESENT A SUBDIVISION OF LAND.



Landscape Architecture  
Land Surveying  
Civil Engineering  
wplsite.com  
757.431.1041  
242 MIDDLETOWN TRAIL, SUITE 8 VIRGINIA BEACH, VA 23462

**SPECIAL EXCEPTION EXHIBIT**

**LOT-'H'**  
SUBDIVISION OF  
LOTS 7, 8, 22, 23, AND PART OF LOT 6, BLOCK 6  
PLAT SHOWING SUBDIVISION No. 1 OF  
**ELMHURST**

M.B. 17, PG. 70 (CHESAPEAKE)  
PLAT RECORDED IN MAP BOOK 47, PAGE 78, IN THE CLERK'S  
OFFICE OF THE CIRCUIT COURT OF THE CITY OF NORFOLK, VIRGINIA  
**NORFOLK, VIRGINIA**

EXCLUSIVELY FOR  
**COLBY CONSTRUCTION**

REV. 04/30/2015  
APRIL 9, 2015

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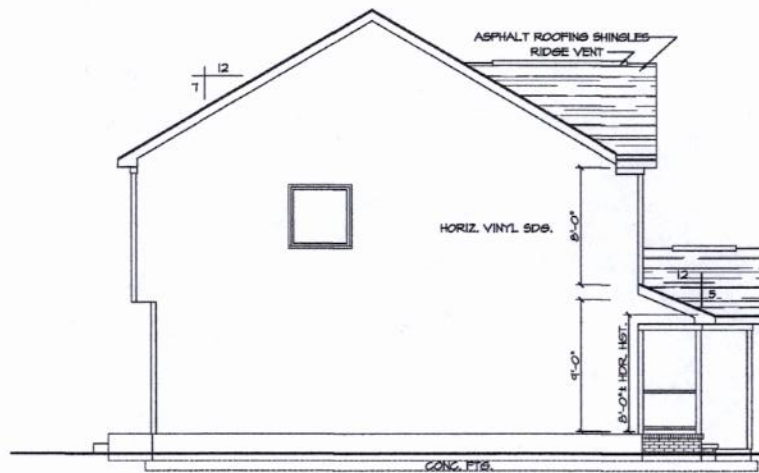
CITY OF NORFOLK, VIRGINIA

F.B. 1029 PG. 51

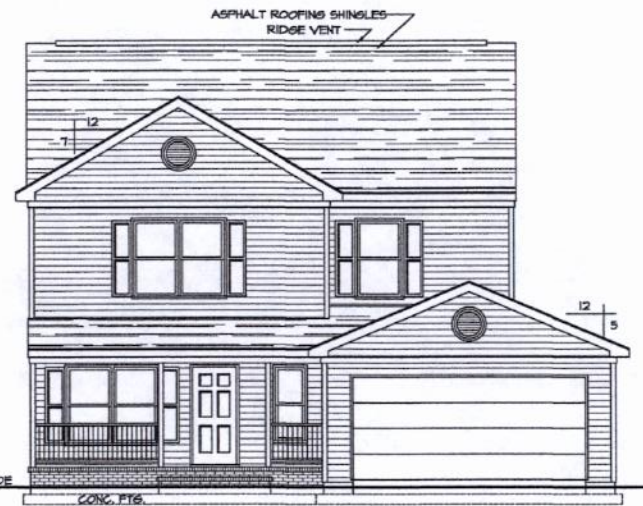
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JN: 215-0102

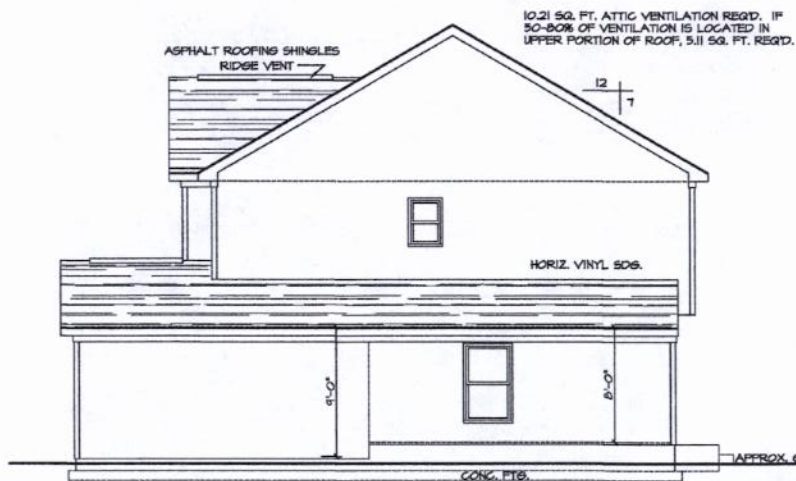




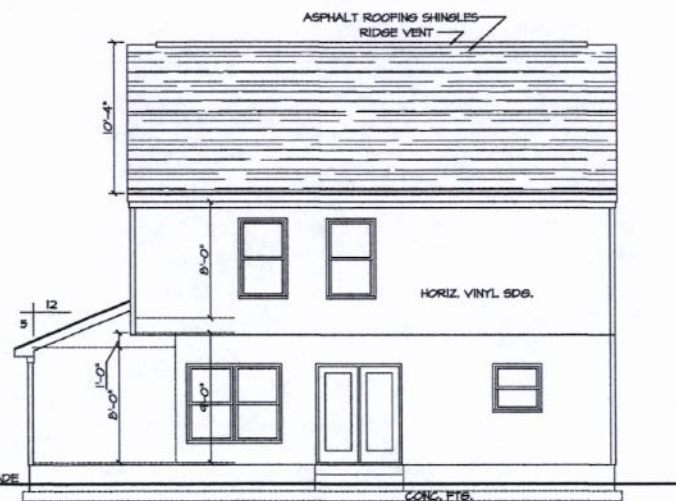
**LEFT ELEVATION**  
1/4"=1'-0"



**FRONT ELEVATION**  
1/4"=1'-0"



**RIGHT ELEVATION**  
1/4"=1'-0"



**REAR ELEVATION**  
1/4"=1'-0"

THE SHELBY  
GARAGE RIGHT  
COLBY CONSTRUCTION  
1234 HONESTAD DRIVE  
VIRGINIA BEACH, VIRGINIA 23464

CUSTOM HOME DESIGNS, INC.  
1870 BPT-6004  
CREASKEAZ, VIRGINIA 22027

REV. NO. 001  
2-18-14  
5-5-14  
3-17-14  
PROJECT  
14-018  
DATE  
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SCALE  
SHOWN

6  
OF 7

## Unknown

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**From:** Straley, Matthew  
**Sent:** Wednesday, April 15, 2015 2:39 PM  
**To:** 'greenwoodcivic1@aol.com'  
**Cc:** Williams, Angelia M.; Johnson, Mamie; Jones, Ashton; Herbst, James  
**Subject:** new Planning Commission application - 4818 Kennebeck Avenue  
**Attachments:** Colby.pdf

Ms. Rochelle,

Attached please find the application for a special exception to create a flag lot on property located at 4818 Kennebeck Avenue.

The item is tentatively scheduled for the May 28, 2015 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Ashton Jones* at (757) 664-7470, [ashton.jones@norfolk.gov](mailto:ashton.jones@norfolk.gov)

Thank you.

**Matthew Straley**  
GIS Technician II  
Norfolk Department of City Planning  
810 Union Street, Suite 508 | Norfolk, Virginia 23510  
[Matthew.Straley@norfolk.gov](mailto:Matthew.Straley@norfolk.gov) | Tel: 757-664-4769 | Fax: 757-441-1569